

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF ENERGY**

**RPS 2023-01**

**ELECTRIC RENEWABLE PORTFOLIO STANDARD**

**Adjustment to Renewable Portfolio Standard Class Requirement**

**Order Setting 2022 Class III Obligation**

In this Order, the Department of Energy (Department) decreases the New Hampshire Renewable Portfolio Standard (RPS) Class III requirement for compliance year 2022 from eight percent to one-half percent (0.5%), pursuant to RSA 362-F:4, VI. The Department is responsible for administering the RPS under RSA 362-F. Under RSA 362-F:4, VI, the Department has the authority to modify the requirement to an amount equal to between 85 and 95 percent of the reasonably expected potential annual output of available eligible sources after taking into account demand from similar programs in other states.

By Order of Notice issued on February 10, 2023, the Department notified stakeholders it would investigate whether it should adjust the RPS Class III requirement (for electric energy generated using eligible biomass or landfill methane gas fuel sources) for compliance year 2022 (CY 2022), which can be satisfied by providers of electricity with renewable energy certificate (REC) purchases made by June 15, 2023 or with alternative compliance payments (ACPs) made by July 1, 2023. To help inform its decision, the Department solicited written public comments from stakeholders and held a public comment hearing on the matter.

The Department received public comment relative to: (i) the availability of New Hampshire Class III RECs; and (ii) the demand for New Hampshire Class III RECs based on regional market conditions for CY 2023. The Department held a public comment hearing on February 24, 2023. At that public comment hearing, the Department heard from the New

Hampshire Electric Cooperative, Inc. (NHEC); Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource); and Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty). The Department received written comments from Bridgewater Power Company (Bridgewater); NHEC; Constellation New Energy, Inc. (Constellation); and First Point Power (FPP). The Department directed that the record remain open for written comments to be submitted through March 3, 2023.

The order of notice, written comments, and other filings and documents related to this matter, other than any information for which confidential treatment has been requested of or granted by the Department, are posted on the Department's website.<sup>1</sup>

## **I. STAKEHOLDER COMMENTS SUMMARY**

### **A. NHEC**

NHEC submitted written comments on March 2, 2023 and commented at the hearing, stating that there is a scarcity of Class III RECs for 2022 and recommending reduction of the 2022 Class III obligation to 0.5% of annual sales.

### **B. Eversource**

At the February 24<sup>th</sup> Public Comment Hearing, Eversource requested that the Department take into consideration the quantity of Class III RECs that load serving entities (LSEs) have banked due to previous reductions in compliance obligations. According to Eversource, to utilize all of its own banked RECs, the 2022 Class III obligation would need to be reduced to no less than .15%. During the hearing, Eversource also stated that due to higher ACP rates in other states, the company anticipates that New Hampshire Class III eligible sources will sell RECs into

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<sup>1</sup> <https://www.energy.nh.gov/renewable-energy/2022-compliance-year-class-iii-obligation-review>

those other state markets and that few, if any, Class III RECs will be available for New Hampshire compliance.

### **C. Liberty**

Liberty echoed the comments of Eversource and stated that it had a significantly higher number of banked RECs, but their concerns remain the same. Liberty further represented that it had not purchased any 2022 RECs and requested consideration of their current banked REC levels.

### **D. Bridgewater**

Bridgewater submitted written comments on March 1, 2023, and submitted supplemental written comments on March 3, 2022. In their remarks, Bridgewater stated that while they are not opposed to a reduction for 2022, they strongly believe that reductions should not become the new precedent for future purchase requirements. Based on the concerns laid out in their comments, Bridgewater suggests that a reduction in the purchase requirement to 3% of retail sales would be appropriate. According to Bridgewater, this level would signal to LSE's that they will have a tangible requirement going forward and this would help ensure market integrity. Notably, Bridgewater also states that they currently have New Hampshire Class III RECs available for sale.

### **E. Constellation**

Constellation submitted written comment on March 3, 2023, urging the Department to exercise the State's authority under RSA 362-F to reduce the 2022 compliance year obligation by the maximum amount.

## **F. First Point Power**

First Point Power submitted written comments on March 3, 2023 stating they have not procured any RECs to satisfy the 2022 Class III requirement and they intend to pay the ACP for any such requirement. As such, First Point Power supports reducing the requirements by the maximum permitted reduction.

## **II. ANALYSIS AND CONCLUSION**

Pursuant to RSA 362-F:4, VI, after notice and hearing, the Department may modify the RPS Class III requirement “such that the requirements are equal to an amount between 85 percent and 95 percent of the reasonably expected potential annual output of available eligible sources after taking into account demand from similar programs in other states.”

Prior to the creation of the Department in 2021, that authority rested with the Public Utilities Commission (Commission), which historically found good cause to reduce the Class III compliance obligation for a particular year based on a showing that Class III RECs were reasonably expected to be unavailable for New Hampshire RPS compliance because those RECs would be used for compliance in other states with higher ACP rates. *See, e.g.*, Order No. 26,472 at 8 (April 20, 2021) (“based on the comments received and other Commission reports and analysis, we find there is unlikely to be a significant number of Class III RECs available for purchase to meet the New Hampshire CY 2020 obligations because those RECs are likely to be used for compliance in other states with higher ACP rates and demand for such RECs.”); Order No. 25,674 at 8 (June 3, 2014) (“Both the electric utilities and Wood IPPs provided testimony that New Hampshire Class III eligible facilities can sell the RECs they produce at a higher price in Connecticut than New Hampshire and that this situation would likely continue for some time.”); Order No. 25,484 at 16 (April 14, 2013) (“no party disputed that New Hampshire Class

III RECs are very scarce in the REC markets, primarily due to the higher REC prices (and higher ACP levels) in Connecticut and Massachusetts”). In 2021, the Department noted similar concerns at page 5 of its March 31, 2022 Order, which set the RPS obligation at 1.0 percent of total retail sales.

Based on the comments received, it appears that, once again for the 2022 compliance year, there is unlikely to be a sufficient number of Class III RECs available to meet the New Hampshire obligation, due to both reduced total production of Class III-eligible RECs and the strong likelihood that eligible RECs will be used for compliance in other states. That anticipated unavailability is due in large part to the statutory requirement that the New Hampshire Class III ACP rate be set at \$31.50 for CY 2022, and adjusted based on the Consumer Price Index as published by the Bureau of Labor Statistics of the United States Department of Labor. This comparably low ACP rate likely caused providers to purchase available Class III RECs for settlement in other states within the regional marketplace. *See* RSA 362-F:10, II-III. Accordingly, it is appropriate to exercise the Department’s authority under RSA 362-F:4, VI to reduce the Class III RPS obligation for CY 2022.

In determining how much to reduce that obligation, the total amount of Class III-eligible RECs produced through the third quarter of CY 2022 was reviewed, as well as the number of Class III-eligible RECs produced during the fourth quarter of CY 2021, as that data is available through public reports posted by NEPOOL GIS.<sup>2</sup> Available banked RECs were also reviewed, as was publicly-available information such as quarterly emissions reports filed by Class III-certified biomass facilities that indicate a number of facilities were non-operational throughout 2022. The current ACP rates in other states, including Connecticut and Massachusetts, and public

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<sup>2</sup> GIS Certificate Statistics. Available online at [Public Reports | NEPOOL GIS](#)

comments regarding the demand for RECs in other states, the supply of available RECs, and relevant market conditions, were also considered by the Department.

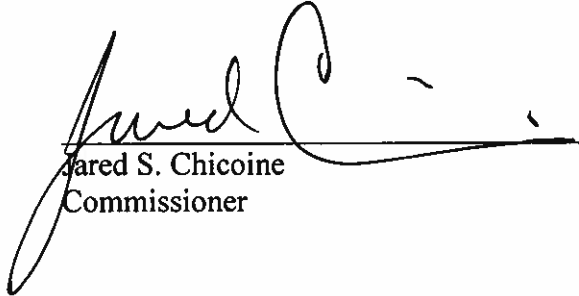
A total of 458,830 RECs were minted with New Hampshire Class III eligibility through the third quarter of 2022. In the absence of fourth quarter REC data for CY 2022, which will not be available in full until after April 15, 2023, Class III eligible REC data for the fourth quarter of 2021 represents a reasonable proxy for estimating the quantity of Class III RECs available for purchase for quarter four of CY 2022 (prior to consideration of regional marketplace dynamics driving available REC supply to Connecticut and Massachusetts). Using these data points, the Department anticipates a total of 177,254 NH Class III RECs for quarter four of CY 2022. Those assumptions support a total Class III production estimate of 636,084 RECs, a quantity lower than past years' Class III REC-eligible production.

Public commenters proposed a range of reductions to the CY 2022 Class III obligation, from a minimum obligation (Constellation Energy, First Point Power) to a reduced level of 0.5% (NHEC) or 3% (Bridgewater). Eversource also offered that a minimum reduction to 0.15% would allow them to utilize their full complement of banked RECs. Based on the public comments and Department analysis, it is likely there will be lower availability of Class III RECs for New Hampshire CY 2022 compliance than were available for CY 2021, but that the availability is more than zero, even after taking into account regional market conditions. The CY 2022 Class III RPS obligation therefore will be set at one-half percent (0.5%) of the total retail sales by each electricity provider to its end-use customers. That level is believed to reflect a reasonable approximation of Class III REC availability falling within the 85% to 95% range specified in the RPS statute.

**Based upon the foregoing, it is hereby**

**ORDERED**, that, pursuant to RSA 362-F:4, VI, the New Hampshire Renewable Portfolio Standard Class III requirement for the 2022 compliance year is set at one-half percent (0.5%) of retail electricity sales.

So ordered this 11<sup>th</sup> day of April, 2023.



Jared S. Chicoine  
Commissioner